

## DUTIES, RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

*Convention signed at Washington May 4, 1850*

*Senate advice and consent to ratification September 24, 1850*

*Ratified by the President of the United States November 14, 1850*

*Ratified by New Granada*<sup>1</sup> *October 30, 1851*

*Ratifications exchanged at Bogotá October 30, 1851*

*Entered into force October 30, 1851*

*Proclaimed by the President of the United States December 5, 1851*

*Notice of abrogation of paragraphs 8 and 11 of article III given by the  
United States, effective July 1, 1916, in accordance with Seamen's  
Act of March 4, 1915*<sup>2</sup>

10 Stat. 900; Treaty Series 55<sup>3</sup>

### CONSULAR CONVENTION BETWEEN THE REPUBLIC OF NEW GRANADA AND THE UNITED STATES OF AMERICA

In the name of the Most Holy Trinity.

The Governments of the Republics of New Granada<sup>1</sup> and the United States of America, having engaged by the thirty-fourth article of the Treaty of Peace, amity, navigation and commerce, concluded on the 12 of December 1846,<sup>4</sup> to form a Consular Convention, which shall declare specially, the powers and immunities of the Consuls and Vice Consuls of the respective parties, in order to comply with this article and more effectively to protect their commerce and navigation, they have given adequate authority to their respective plenipotentiaries—to wit: the Government of New Granada to Raphael Rivas its Chargé d'affaires in the United States, and the Government of the United States to John M. Clayton, Secretary of State, who after the exchange and examination of their full powers, found to be sufficient and in due form, have agreed upon the following articles,—

---

<sup>1</sup> See footnote 1, *ante*, p. 865.

<sup>2</sup> 38 Stat. 1164.

<sup>3</sup> For a detailed study of this convention, see 5 Miller 803.

<sup>4</sup> TS 54, *ante*, p. 868.

## ARTICLE I

Each of the two contracting Republics, may maintain in the principal cities, or commercial places of the other, and in the ports open to foreign commerce, Consuls of its own, charged with the protection of the commercial rights and interests of their nation, and to sustain their countrymen in the difficulties, to which they may be exposed. They may likewise appoint Consuls general, as Chiefs over the other Consuls, or to attend to the affairs of several commercial places at the same time, and Vice Consuls for Ports of minor importance, or to act under the direction of the Consuls. Each Republic may however except those cities, places or ports in which it may consider the residence of such functionaries inconvenient; such exception being common to all nations. All that is said in this Convention of Consuls in general, shall be considered as relating not only to Consuls properly so called, but to Consuls General and Vice Consuls, in all the cases to which this Convention refers.

## ARTICLE II

The Consuls appointed by one of the contracting parties to reside in the ports or places of the other, shall present to the Government of the Republic in which they are to reside, their letters patent or Commission, in order that they may receive the proper *exequatur* if it be deemed expedient to give it, which shall be granted without any charge; and this *exequatur* when obtained, is to be exhibited to the chief authorities of the place in which the Consul is to exercise his functions, in order that they may cause him to be recognized in his character, and that he may be sustained in his proper prerogatives, in his respective Consular district. The government receiving the Consul, may withdraw the *exequatur* or his Consular Commission, whenever it may judge proper to do so, but in such case shall state a reasonable ground for the proceeding.

ARTICLE III <sup>5</sup>

The Consuls admitted in either Republic may exercise in their respective districts the following functions.—

1. They may apply directly to the authorities of the district in which they reside, and they may in case of necessity have recourse to the national Government, through the diplomatic agent of their nation, if there be any, or directly if there be no such agent, in complaint against any infraction of the treaties of commerce, committed by the authorities or persons employed by them, in the Country to the injury of the commerce of the nation in whose service the Consul is engaged.

2<sup>a</sup> They may apply to the authorities of the Consular District, and in case of necessity they may have recourse to the national Government through the

<sup>5</sup> Notice of abrogation of paras. 8 and 11 of art. III given by the United States, effective July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

diplomatic agent of their nation if there be any or directly if there be no such agent, against any abuse on the part of the authorities of the country, or the persons employed by them, against individuals of their nation in whose service the Consul is engaged, and they may when necessary take such measures as may be proper to prevent justice from being denied to them or delayed, and to prevent them from being judged, or punished by any other than competent judges and agreeably to the laws in force.

3<sup>d</sup> They may as the natural defenders of their fellow countrymen, appear in their name and behalf, whenever so requested by them before the respective authorities of the place in all cases in which their support may be necessary.

4. They may accompany the Captains mates or masters of vessels of their nation, in all that they may have to do, with regard to the manifests of their merchandise, and other documents, and be present in all cases, in which the authorities Courts or Judges of the Country may have to take any declarations from the persons above mentioned or any other belonging to their respective crews.

5. They may receive depositions protests and statements from Captains mates and masters of vessels of their nation, respecting losses and injuries sustained at Sea, and protests of any individuals of their nation respecting mercantile affairs. These documents, drawn up in authentic copies certified by the Consul, shall be admitted in the Courts and offices of justice, and shall have the same validity as if they had been authenticated before the same Judges or Courts.

6. They may determine on all matters relating to injuries sustained at Sea, by effects and merchandise shipped in vessels of the nation in whose service the Consul is employed, arriving at the place of his residence, provided that there be no stipulations to the contrary between the shippers owners and insurers. But if among the persons interested in such losses and injuries, there should be inhabitants of the country where the Consul resides and not belonging to the nation, in whose service he is, the cognizance of such losses and injuries appertains, to the local authorities.

7. They may compromise amicably and out of Court, the differences arising between their fellow countrymen; provided that those persons, agree voluntarily to submit to such arbitration; in which case, the document containing the decision of the Consul authenticated by himself and by his chancellor or Secretary, shall have all the force of a notarial copy authenticated so as to render it obligatory on the interested parties.

8. They may cause proper order to be maintained, on board of vessels of their nation, and may decide on the disputes arising between the captains, the officers and the members of the crew, unless the disorders taking place on board should disturb the public tranquillity, or persons not belonging to the crew or to the nation in whose service the Consul is employed; in which case the local authorities may interfere.

9. They may direct all the operations for saving vessels of their nation which may be wrecked on the coasts of the district where the Consul resides. In such cases, the local authorities shall interfere only in order to maintain tranquillity, to give security to the interests of the parties concerned, and to cause the dispositions which should be observed for the entry and export of the property, to be fulfilled. In the absence of the Consul, and until his arrival, the said authorities shall take all the measures necessary for the preservation of the effects of the wrecked vessel.

10. They may take possession, make inventories, appoint appraisers to estimate the value of articles and proceed to the sale of the moveable property of individuals of their nation who may die in the country where the Consul resides, without leaving executors appointed by their will or heirs at law. In all such proceedings, the Consul shall act in conjunction with two merchants chosen by himself, for drawing up the said papers or delivering the property or the produce of its sale, observing the laws of his country and the orders which he may receive from his own Government; but Consuls shall not discharge these functions in those States whose peculiar legislation may not allow it. Whensoever there is no Consul in the place where the death occurs, the local authorities shall take all the precautions in their power to secure the property of the deceased.

11. They may demand from the local authorities the arrest of seamen deserting from the vessels of the nation in whose service the Consul is employed, exhibiting, if necessary, the register of the vessel, her muster roll, and any other official document in support of this demand. The said authorities shall take such measures as may be in their power, for the discovery and arrest of such deserters, and shall place them at the disposition of the Consul, but if the vessel to which they belong shall have sailed, and no opportunity for sending them away should occur they shall be kept in arrest, at the expense of the Consul for two months; and if at the expiration of that time, they should not have been sent away, they shall be set at liberty by the respective authorities and cannot again be arrested for the same cause.

12. They may give such documents as may be necessary for the intercourse between the two countries and countersign those which may have been given by the authorities. They may also give bills of health, if necessary, to vessels sailing from the port where the Consul resides to the ports of the nation to which he belongs; they may also certify invoices, muster rolls, and other papers, necessary for the commerce and navigation of vessels.

13. They may appoint a chancellor or Secretary, whensoever the Consulate has none, and one is required for authenticating documents.

14. They may appoint Commercial agents, to employ all the means in their power, in behalf of individuals of the nation in whose service the Consul is, and for executing the Commissions which the Consul may think proper to entrust to them out of the place of his residence; provided however, that

such agents are not to enjoy the prerogatives conceded to Consuls, but only those which are peculiar to commercial agents.

#### ARTICLE IV

The Consuls of one of the contracting Republics residing in another country may employ their good offices in favor of individuals of the other Republic which has no Consul in that country.

#### ARTICLE V

The Contracting Republics recognize no diplomatic character in Consuls, for which reason, they will not enjoy in either country the immunities granted to public agents accredited in that character; but in order that the said Consuls may exercise their proper functions without difficulty or delay, they shall enjoy the following prerogatives.

1. The archives and papers of the Consulate shall be inviolable and cannot be seized by any functionary of the country in which they may be.

2. Consuls, in all that exclusively concerns the exercise of their functions, shall be independent of the State in whose territory they reside.

3. The Consuls and their Chancellors or Secretaries, shall be exempt from all public service and from contributions personal and extraordinary imposed in the country where they reside. This exemption does not comprehend the Consuls or their Chancellors or Secretaries who may be natives of the country in which they reside.

4. Whenever the presence of Consuls may be required in Courts or offices of Justice, they shall be summoned in writing.

5. In order that the dwellings of Consuls may be easily and generally known, for the convenience of those who may have to resort to them, they shall be allowed to hoist on them the flag and to place over their doors the coat of arms of the nation in whose service the Consul may be, with an inscription expressing the functions discharged by him; but those insignia shall not be considered as importing a right of asylum, nor as placing the house or its inhabitants beyond the authority of the magistrates who may think proper to search them, and who shall have that right in regard to them in the same manner as with regard to the houses of the other inhabitants in the cases prescribed by the laws.

#### ARTICLE VI

The persons and dwellings of Consuls shall be subject to the laws and authorities of the country in all cases in which they have not received a special exemption by this Convention, and in the same manner as the other inhabitants.

#### ARTICLE VII

Consuls shall not give passports to any individual of their nation or going to their nation who may be held to answer before any authority, Court or

Judge of the country for delinquencies committed by them or for a demand which may have been legally acknowledged provided that in each case proper notice thereof shall have been given to the Consul; and they shall see that the vessels of their nation do not infringe the rules of neutrality when the nation in which the Consul resides is at war with another nation.

#### ARTICLE VIII

The present Convention shall be ratified by the Governments of the two contracting Republics and the ratifications shall be exchanged at Bogotá, within the term of eighteen months counted from this date, or sooner if possible.

#### ARTICLE IX

The present Convention shall be binding upon the contracting parties so long as the Treaty of Peace, Friendship, Navigation and Commerce between the United States and New Granada, the ratifications of which were exchanged at Washington on the tenth of June, one thousand eight hundred and forty eight,<sup>o</sup> shall remain in force.

In faith whereof, we, the Plenipotentiaries of the United States and of New Grenada have signed the present and have affixed to it our respective seals at Washington, the fourth day of May, in the year of our Lord, one thousand eight hundred and fifty.

JOHN M. CLAYTON	[SEAL]
RAFAEL RIVAS	[SEAL]

---

<sup>o</sup> TS 54, *ante*, p. 868.